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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,542	10/31/2003	Jonathan Wylde	35683.0new	9949
26712	7590	12/14/2005	EXAMINER	
HODGSON RUSS LLP ONE M & T PLAZA SUITE 2000 BUFFALO, NY 14203-2391			GOINS, DAVETTA WOODS	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/698,542	Applicant(s) WYLDE, JONATHAN	
	Examiner Davetta W. Goins	Art Unit 2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-20 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/8/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Allowable Subject Matter

1. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 6, 8-10, 12, 15 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Dery et al. (US Pat. 5,614,883).

In reference to claims 1, 12, 20, Dery discloses a) the claimed receiver having a predetermined target area, which is met by light detectors 212 and 214 (col. 11, lines 7-46; Figure 2), b) the claimed transmitter for transmitting a directed beam of trigger signals, which is met by optical light sources 204 and 206 (col. 7-46; Figure 2), c) the claimed one of the receiver and transmitter being mounted to the shift lever knob and the other of the receiver and transmitter being mounted in the vehicle at a location spaced apart from the shift lever knob so that the transmitted trigger signals are directed towards the target area when the shift lever knob is in a predetermined position, which is met by when the gear shift lever 280 is in the neutral position, the elements of

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each optical pair source/detector are in mutual alignment along a light propagation axis (col. 11, lines 7-46), and d) the claimed controller coupled to the receiver for determining, based on the trigger signals received by the receiver, if the shift lever knob is in the predetermined position and if so generating a predetermined signal, which is met by microprocessor 202 (col. 11, lines 46-67).

In reference to claim 6, Dery discloses the claimed predetermined position corresponding to a neutral position of the shift lever and the predetermined signal is for application to a remote vehicle starter for enabling the remote vehicle starter to start an engine of the vehicle, which is met by a system allowing the user to operate the vehicle with a remote control starter, the system determines the gear shift position prior to determining whether the engine of the vehicle can be safely started (col. 8, lines 46-67; col. 11, lines 31-67)

In reference to claims 8, 9, Dery discloses the claimed controller configured for checking if the signals received by the receiver meet predetermined characteristics for confirming that the received signals are trigger signals, which is met by microprocessor 202 performing a diagnostic routine (col. 11, lines 46-67).

In reference to claim 10, Dery disclose the claimed transmitter including a fine beam producing laser device for generating the trigger signals, and the receiver including an optical sensor, which is met by the optical elements transmitting a narrow beam (col. 11, lines 1-22).

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In reference to claim 15, Dery discloses the claimed detector for detecting and generating a brake signal for the controller if a parking brake of the vehicle is in a braking position, the controller configured to not generate the predetermined signal if the brake signal is absent, which is met by the system determining whether the parking brake is engaged (col. 13, lines 45-67; col. 14, lines 1-32).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dery et al..

In reference to claims 2, 3, although Dery does not specifically disclose the claimed the other of the receiver and transmitter being mounted at a location that is horizontal with or above the shift lever knob, the other of the receiver and transmitter is mounted in one of a head liner, a door panel or an instrument panel of the vehicle, he does disclose a housing 310 including an optical pair source/detector that are in mutual alignment along a light propagation axis when the gear shift lever 280 is in the neutral position. Upon the detector, within the housing, no longer detects light by sensors 212 and 214 a diagnostic routine is made to determine whether the engine of the vehicle can be safely started (col. 11, lines 7-67). Since Dery discloses a system that includes

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emitted light from the gear shift lever to a remote sensor, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine which position the gear is in prior to starting the engine of the vehicle.

In reference to claim 11, although Dery does not specifically disclose the claimed laser device including a focusable collimating lens for adjusting a width of the fine beam produced by the laser device, he does disclose optical elements transmitting a narrow beam (col. 11, lines 1-22). Since Dery's concerned with emitting narrow beams of light from the optical emitters, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a collimating lens or any other device that will ensure that the beam of light is transmitted and received by the receiving device and may be adjusted for sensitivity purposes that may prevent false alarms for the system.

6. Claims 7, 13, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dery et al. in view of Tompkins (US Pat. 5,600,299).

In reference to claims 7, 13, 14, 19, although Dery does not specifically disclose the claimed motion sensor for detecting motion of the vehicle and generating a predetermined kill engine signal if motion is detected during start up of an engine of the vehicle, he does disclose a system for monitoring the position of the gear shift as well as the parking brake of the vehicle prior to starting the engine of the vehicle (col. 14-67; col. 10, lines 1-22). Tompkins discloses a vehicle system that detects motion of a vehicle and can then trip an ignition kill switch for security

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purposes (col. 2, lines 30-67). Since Dery discloses a vehicle system that is concerned with determining whether to allow the starter of the vehicle to initiate, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of detecting whether the vehicle is in motion, as disclosed by Tompkins, with the system of Dery, to ensure that no other sensed conditions, that may cause a hazard, are detected prior to allowing the vehicle to be started.

7. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dery et al. in view of Nagasaka (US Pat. 6,707,379 B2).

In reference to claims 16-18, although Dery does not specifically disclose the claimed transmitter including a narrow beam laser emitting device housed within the shift knob handle, he does disclose a housing 310 including an optical pair source/detector that are in mutual alignment along a light propagation axis when the gear shift lever 280 is in the neutral position. Upon the detector, within the housing, no longer detects light by sensors 212 and 214 a diagnostic routine is made to determine whether the engine of the vehicle can be safely started (col. 11, lines 7-67). Nagasaka discloses a shift device in which light is transmitted and viewed through the gear shift knob 12a of the gear shift 12 (col. 2, lines 8-55). Since Dery discloses a system that includes emitted light from the gear shift lever, it would have been obvious to one of ordinary skill in the art at the time of the invention to place the light emitter on any location of the shift lever, such as the knob of Nagasaka, as an alternative structural choice for emitting light that should be received at a remote sensor.

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8. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure as follows. Kazyaka (US Pat. 5,552,71), Drori (US Pat. 6,452,484 B1), Saito (US Pat. 6,554,741 B2) and Nagasaka (US Pat. 6,707,379 B2), which disclose vehicle systems.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davetta W. Goins whose telephone number is 571-272-2957. The examiner can normally be reached on Mon-Fri with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Davetta W. Goins
Primary Examiner
Art Unit 2632



D.W.G.
October 1, 2005